

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

RONALDO DESIGNER JEWELRY, INC.

PLAINTIFF

V.

NO. 1:17-CV-2-DMB-DAS

**JAMES B. COX and CATHERINE A. COX
d/b/a JC DESIGNS d/b/a WIRE N RINGS
and JOHN DOE a/k/a LEROY and JOHN
DOES Numbers 1 through 99**

DEFENDANTS

ORDER

This intellectual property action is before the Court on Ronaldo Designer Jewelry, Inc.’s “Motion to Strike Defendants’ Supplemental Response to Their Motion Pursuant to 17 U.S.C. § 411(b)(2); or Alternatively, for Leave to File Sur-Reply.” Doc. #319.

I
Procedural History

On April 28, 2017, Ronaldo Designer Jewelry, Inc. filed a second amended complaint against James B. Cox and Catherine A. Cox d/b/a JC Designs d/b/a Wire N Rings, John Doe a/k/a Leroy, and John Does Numbers 1 through 99, alleging, among other things, claims for copyright infringement for various wire bracelets. Doc. #82.

On September 2, 2018, the Coxes, alleging that “the information ... Ronaldo provided in its copyright applications ... for the Power of Prayer jewelry design and the Angelina jewelry design ... was materially inaccurate and incomplete,” moved this Court pursuant to 17 U.S.C. § 411(b)(2) to issue a request to the Register of Copyrights to determine whether the Register would have refused Ronaldo’s registrations in light of the alleged inaccurate or missing information. Doc. #143. Finding that the parties applied the incorrect legal standard in their briefing on the motion, the Court directed Ronaldo to file a supplemental response and granted the Coxes leave to file a supplemental reply. Doc. #316 at 7. Ronaldo filed its supplemental response on May 1,

2019. Doc. #317. The Coxes filed their supplemental reply seven days later. Doc. #318.

On May 15, 2019, Ronaldo moved to strike certain allegations and arguments in the Coxes' supplemental reply or, alternatively, for leave to file a sur-reply. Doc. #319. The motion to strike is fully briefed. Docs. #320, 321.

II **Analysis**

Ronaldo argues that certain arguments and allegations in the Coxes' supplemental reply must be stricken because they add new arguments and new allegations in support of the Coxes' request for referral to the Register. *See* Doc. #319. The Coxes respond that their supplemental reply merely "responded to the Order for supplemental briefing and responded to the matters raised by Ronaldo in its Supplemental Response." Doc. #320 at 3.

The Court has reviewed the relevant briefing in this case and believes that the Coxes' supplemental reply raises new arguments and allegations in support of their motion. Specifically, the supplemental reply raises arguments and allegations related to authorship not present in the original motion, and raises arguments related to Ronaldo's business structure which were not originally argued. However, rather than potentially invite a second referral motion based on the grounds raised in the supplemental reply, the Court, in the interest of efficiency, will deny Ronaldo's request to strike the supplemental reply and instead grant Ronaldo's alternative request for leave to file a supplemental sur-reply. *See 16 Front Street LLC v. Miss. Silicon, LLC*, 162 F. Supp. 3d 558, 560 (N.D. Miss. 2016) ("[A]sur-reply is appropriate when the movant's rebuttal raises new legal theories or attempts to present new evidence at the reply or rebuttal stage.").

III **Conclusion**

The motion to strike [319] is **GRANTED in Part and DENIED in Part**. The motion is **DENIED** to the extent it asks the Court to strike certain arguments and allegations in the Coxes'

supplemental reply. The motion is GRANTED to the extent it seeks leave to file a sur-reply.

Ronaldo may file a sur-reply within seven (7) days of this order.

SO ORDERED, this 14th day of June, 2019.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE